

**ASSEMBLY BILL**

**No. 2364**

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**Introduced by Assembly Member Nava**

February 19, 2010

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An act to amend Sections 1030, 1032, 1256, 1329, 1329.1, 1537, and 3011 of, and to repeal Division 5 (commencing with Section 12100) of, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2364, as introduced, Nava. Unemployment insurance: benefits: good cause to leave work.

Existing law provides for unemployment compensation benefits to eligible individuals who are unemployed through no fault of their own. Existing law authorizes any employer who is entitled to receive specified notice of an unemployment claim, to, within 10 days after mailing of the notice, submit to the Employment Development Department specified facts disclosing whether the claimant for benefits left the employer's employ voluntarily and with good cause under certain circumstances, including, among other things, that the claimant left the employer's employ to protect his or her children or himself or herself from domestic violence abuse.

This bill would revise various provisions governing eligibility for unemployment compensation benefits to specify that a claimant is eligible for benefits where he or she left an employer's employ to protect his or her family from domestic violence abuse. By increasing the number of persons who may be eligible to receive unemployment compensation benefits, thereby providing for increased amounts payable

from the Unemployment Insurance Fund, the bill would make an appropriation.

Existing law requires the department, upon the filing of a new claim for benefits, to promptly make a computation regarding the maximum amount of benefits payable, and to promptly notify the claimant of the computation.

This bill would also require the department to promptly notify the claimant of the method of computation.

Existing law requires, whenever any warrant drawn on an account in the Unemployment Fund, the Unemployment Administration Fund, the Contingent Fund, or the Disability Fund by the Controller remains unclaimed after 3 years, that amount reverts to the account and the fund from which the amount was payable.

This bill would reduce that time period for reversion of those amounts to one year.

Existing law requires the department to administer specified provisions related to leisure sharing, to become operative upon the date that any federal or other funds are received, and specifies that those provisions shall remain in effect for a period of 3 years after that date.

This bill would repeal those laws related to leisure sharing.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1030 of the Unemployment Insurance
- 2 Code is amended to read:
- 3 1030. (a) Any employer who is entitled under Section 1327
- 4 to receive notice of the filing of a new or additional claim may,
- 5 within 10 days after mailing of the notice, submit to the department
- 6 any facts within its possession disclosing whether the claimant left
- 7 the employer's employ voluntarily and without good cause or left
- 8 under one of the following circumstances:
- 9 (1) The claimant was discharged from the employment for
- 10 misconduct connected with his or her work.
- 11 (2) The claimant's discharge or quitting from his or her most
- 12 recent employer was the result of an irresistible compulsion to use
- 13 or consume intoxicants including alcoholic beverages.
- 14 (3) The claimant was a student employed on a temporary basis
- 15 and whose employment began within, and ended with his or her

1 leaving to return to school at the close of, his or her vacation  
2 period.

3 (4) The claimant left the employer's employ to accompany his  
4 or her spouse or domestic partner to or join her or him at a place  
5 from which it is impractical to commute to the employment, to  
6 which a transfer of the claimant by the employer is not available.

7 (5) The claimant left the employer's employ to protect his or  
8 her ~~children~~ *family* or himself or herself from domestic violence  
9 abuse.

10 The period during which the employer may submit these facts  
11 may be extended by the director for good cause.

12 (b) Any base period employer that is not entitled under Section  
13 1327 to receive notice of the filing of a new or additional claim  
14 and is entitled under Section 1329 to receive notice of computation  
15 may, within 15 days after mailing of the notice of computation,  
16 submit to the department any facts within its possession disclosing  
17 whether the claimant left the employer's employ voluntarily and  
18 without good cause or left under one of the following  
19 circumstances:

20 (1) The claimant was discharged from the employment for  
21 misconduct connected with his or her work.

22 (2) The claimant was a student employed on a temporary basis  
23 and whose employment began within, and ended with his or her  
24 leaving to return to school at the close of, his or her vacation  
25 period.

26 (3) The claimant left the employer's employ to accompany his  
27 or her spouse or domestic partner to or join her or him at a place  
28 from which it is impractical to commute to the employment, to  
29 which a transfer of the claimant by the employer is not available.

30 (4) The claimant left the employer's employ to protect his or  
31 her ~~children~~ *family* or himself or herself from domestic violence  
32 abuse.

33 The period during which the employer may submit these facts  
34 may be extended by the director for good cause.

35 (c) The department shall consider these facts together with any  
36 information in its possession. If the employer is entitled to a ruling  
37 under subdivision (b) or to a determination under Section 1328,  
38 the department shall promptly notify the employer of its ruling as  
39 to the cause of the termination of the claimant's employment. The  
40 employer may appeal from a ruling or reconsidered ruling to an

1 administrative law judge within 20 days after mailing or personal  
2 service of notice of the ruling or reconsidered ruling. The 20-day  
3 period may be extended for good cause, which includes, but is not  
4 limited to, mistake, inadvertence, surprise, or excusable neglect.  
5 The director is an interested party to any appeal. The department  
6 may for good cause reconsider any ruling or reconsidered ruling  
7 within either five days after the date an appeal to an administrative  
8 law judge is filed or, if no appeal is filed, within 20 days after  
9 mailing or personal service of notice of the ruling or reconsidered  
10 ruling. However, a ruling or reconsidered ruling that relates to a  
11 determination that is reconsidered pursuant to subdivision (a) of  
12 Section 1332 may also be reconsidered by the department within  
13 the time provided for reconsideration of that determination.

14 (d) For purposes of this section only, if the claimant voluntarily  
15 leaves the employer's employ without notification to the employer  
16 of the reasons for the leaving, and if the employer submits all of  
17 the facts within its possession concerning the leaving within the  
18 applicable time period referred to in this section, the leaving is  
19 presumed to be without good cause.

20 (e) An individual whose employment is terminated under the  
21 compulsory retirement provisions of a collective bargaining  
22 agreement to which the employer is a party shall not be deemed  
23 to have voluntarily left his or her employment without good cause.

24 SEC. 2. Section 1032 of the Unemployment Insurance Code  
25 is amended to read:

26 1032. If it is ruled under Section 1030 or 1328 that the claimant  
27 left the employer's employ voluntarily and without good cause,  
28 or left under one of the following circumstances, benefits paid to  
29 the claimant subsequent to the termination of employment that are  
30 based upon wages earned from the employer prior to the date of  
31 the termination of employment shall not be charged to the account  
32 of the employer, except as provided by Section 1026, unless the  
33 employer failed to furnish the information specified in Section  
34 1030 within the time limit prescribed in that section or unless that  
35 ruling is reversed by a reconsidered ruling:

36 (a) The claimant was discharged by reason of misconduct  
37 connected with his or her work.

38 (b) The claimant was a student employed on a temporary basis  
39 and whose employment began within, and ended with his or her

1 leaving to return to school at the close of, his or her vacation  
2 period.

3 (c) The claimant left the employer's employ to accompany his  
4 or her spouse or domestic partner to or join her or him at a place  
5 from which it is impractical to commute to the employment, to  
6 which a transfer of the claimant by the employer is not available.

7 (d) The claimant left the employer's employ to protect his or  
8 her ~~children~~ *family* or himself or herself from domestic violence  
9 abuse.

10 (e) The claimant left the employer's employ to take a  
11 substantially better job.

12 (f) The claimant's discharge or quitting from his or her most  
13 recent employer was the result of an irresistible compulsion to use  
14 or consume intoxicants including alcoholic beverages.

15 For purposes of this section and Section 1030 "spouse" includes  
16 a person to whom marriage is imminent.

17 SEC. 3. Section 1256 of the Unemployment Insurance Code  
18 is amended to read:

19 1256. An individual is disqualified for unemployment  
20 compensation benefits if the director finds that he or she left his  
21 or her most recent work voluntarily without good cause or that he  
22 or she has been discharged for misconduct connected with his or  
23 her most recent work.

24 An individual is presumed to have been discharged for reasons  
25 other than misconduct in connection with his or her work and not  
26 to have voluntarily left his or her work without good cause unless  
27 his or her employer has given written notice to the contrary to the  
28 department as provided in Section 1327, setting forth facts  
29 sufficient to overcome the presumption. The presumption provided  
30 by this section is rebuttable.

31 An individual whose employment is terminated under the  
32 compulsory retirement provisions of a collective bargaining  
33 agreement to which the employer is a party, shall not be deemed  
34 to have left his or her work without good cause.

35 An individual may be deemed to have left his or her most recent  
36 work with good cause if he or she leaves employment to  
37 accompany his or her spouse or domestic partner to a place from  
38 which it is impractical to commute to the employment. For  
39 purposes of this section "spouse" includes a person to whom  
40 marriage is imminent.

1 An individual may be deemed to have left his or her most recent  
2 work with good cause if he or she leaves employment to protect  
3 his or her ~~children~~ *family*, or himself or herself, from domestic  
4 violence abuse.

5 An individual shall be deemed to have left his or her most recent  
6 work with good cause if he or she elects to be laid off in place of  
7 an employee with less seniority pursuant to a provision in a  
8 collective bargaining agreement that provides that an employee  
9 with more seniority may elect to be laid off in place of an employee  
10 with less seniority when the employer has decided to lay off  
11 employees.

12 SEC. 4. Section 1329 of the Unemployment Insurance Code  
13 is amended to read:

14 1329. (a) Upon the filing of a new claim for benefits, the  
15 department shall promptly make a computation on the claim that  
16 shall set forth the maximum amount of benefits potentially payable  
17 during the benefit year, and the weekly benefit amount. The  
18 department shall promptly notify the claimant of the computation  
19 *and the method of computation*. The department shall promptly  
20 notify each of the claimant's base period employers of the  
21 computation after the payment of the first weekly benefit.

22 (b) The department shall promptly notify each of the claimant's  
23 base period employers of the computation on the claim that shall  
24 set forth the number of weeks that the claimant will be eligible for  
25 benefits in the benefit year, the weekly benefit amount, and the  
26 maximum amount of benefits potentially payable during the benefit  
27 year, based on a determination of eligibility under Article 1.5  
28 (commencing with Section 1266).

29 SEC. 5. Section 1329.1 is added to the Unemployment  
30 Insurance Code, to read:

31 1329.1. A claim for unemployment compensation benefits may  
32 be canceled if all of the following apply:

33 (a) The individual has not been deemed ineligible for  
34 unemployment compensation benefits.

35 (b) The individual has not been overpaid unemployment  
36 compensation benefits.

37 (c) The individual has not collected unemployment  
38 compensation benefits.

39 SEC. 6. Section 1537 of the Unemployment Insurance Code  
40 is amended to read:

1     1537. Whenever any warrant drawn on an account in the  
2     Unemployment Fund or on the Unemployment Administration  
3     Fund or the Contingent Fund by the ~~State~~ Controller remains  
4     unclaimed after ~~three years~~ *one year* the amount thereof shall revert  
5     to the account and the fund from which the amount was payable.

6     SEC. 7. Section 3011 of the Unemployment Insurance Code  
7     is amended to read:

8     3011. Whenever any warrant is drawn on an account in the  
9     Disability fund by the ~~State~~ Controller, and the same remains  
10    unclaimed after ~~three years~~ *one year*, the amount thereof shall  
11    revert to that account in the Disability Fund from which the amount  
12    was payable.

13    SEC. 8. Division 5 (commencing with Section 12100) of the  
14    Unemployment Insurance Code is repealed.